

Before the Board of Zoning Adjustment, D. C.

11699, 11721

Appeal of North Dupont Community Association, pursuant to Sections 8102 and 8206 of the Zoning Regulations from the determination of the Zoning Administrator in issuing Building Permit B-225435, dated May 22, 1974, to allow a 90 foot structure on a "corner lot" consuming 2/3 of a street 40 feet wide with no setback and using one front for height and another for rear yard; to be consolidated with 11721, appeal from the determination of the Zoning Administrator in issuing Building Permit No. B-225436, dated May 22, 1974 for the construction of a 90 foot building in the R-5-B Zone at 1627 19th Street, N. W., the day this zone was officially changed from R-5-C to R-5-B by the Zoning Commission and a request for interpretation of the language of Section 8103.5 of the Zoning Regulations.

HEARING DATE: July 23, 1974

EXECUTIVE SESSION: Dismissed from the Bench on July 23, 1974

FINDINGS OF FACT:

1. The Zoning Administrator's decision to issue the building permit in question, allowing a 90 foot structure to be erected on a corner lot bounded by Corcoran and 19th Streets, N. W. was made pursuant to application and interpretation of the Congressional Act of 1910, 136 stat. 452 as amended, the meaning of which, the Board finds to be clear on its face.

The Act of 1910 in relevant part, Sec. 5., states that "the height of a building on a corner lot will be determined by the width of the wider street," which in this case would allow the construction of a 90 foot building.

The Act further limits the height of buildings located on a corner lot, as stated in Section 1(A) that, "on Streets over 65 feet wide - the width of the street less 10 feet, with a maximum of 90 feet.

2. The Zoning Administrator computed the height of the building in question using 19th Street, N. W., which has a dedicated street width of 110 feet and is wider than Corcoran Street, N. W. which has the dedicated street width of 40 feet and is perpendicular to 19th Street, N. W. and abuts the subject corner lot whereon the building in question would be located.

3. The Zoning Administrator's designation of the rear yard of the proposed building was based on the Board's decision in Case No. 6186, dated January 21, 1961.

4. The Zoning Administrator issued the Building Permit in question on the same day of, but prior to the official publication of the Zoning Commission action which changed the zone in which the subject property is located from R-5-C to R-5-B. The Building Permit was issued at 8:47 a.m. on the morning of May 22, 1974 and Z. C. Order No. 90 was not delivered to the office of the Secretariat for publication in the D. C. Register until the afternoon of May the 22nd, 1974.

5. The appellant objected to the Appellee's motion to dismiss.

CONCLUSIONS OF LAW:

Based upon the above findings, the Board concludes, that because the Zoning Administrator applied accurately, the Act of 1910, which has clear meaning on its face without ambiguity, that the decision to issue the building permit to allow the construction of a building 90 feet in height was not in error. The Board concludes that the Zoning Administrator's determination was both reasonable and accurate in light of the clear meaning of the Act of 1910 which prescribes the height limitation for buildings or structures to be erected on corner lots in the District of Columbia.

Because the Zoning Administrator based his determination of the location of the rear yard of the proposed building on a previous Board decision identical to the instant case, the Board concludes that the Zoning Administrator was not in error.

The Board further concludes, that because the Building Permit in question was issued before official publication of Zoning Commission Order No. 90, that his decision to issue the permit was correct. Further, because the permit was issued prior to the official change of zoning applicable to the subject property, the Board does not find it necessary to interpret

the meaning of Section 8103.2 of the Zoning Regulations as it may affect the instant appeal.

ORDERED:

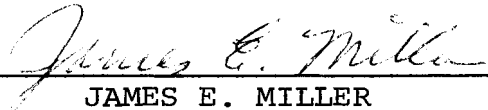
That the motion of the Appellee be and is hereby GRANTED, dismissing the appeals before the Board and affirming the determinations of the Zoning Administrator.

VOTE:

5-0

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By:



JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER: **SEP 19 1974**